

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 6694 of 2007()

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CRMP.1292/2007 of DISTRICT COURT, KALPETTA  
CRIME NO.423/07 OF MANANTHAVADY POLICE STATION  
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PETITIONER/ACCUSED  
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SHOUJU @ SHAHUL HAMEED,  
S/O.MAMMU, KODUVALI HOUSE, P.O.CHEERAL,  
SULTHAN BATHERY.

BY ADV. SRIJJO PAUL

RESPONDENTS: STATE  
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THE STATE OF KERALA, REPRESENTED  
BY THE STATION HOUSE OFFICER,  
MANANTHAVADY POLICE STATION-THROUGH THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R. BASANT, J.**

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**B.A. No. 6694 OF 2007**  
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**Dated this the 30<sup>th</sup> day of November, 2007**

**ORDER**

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. He faces allegations under Sec.498A of the IPC. He is alleged to be guilty of matrimonial cruelty of the culpable variety punishable under Sec.498A of the IPC.

2. The marriage took place only on 18/1/07. The wife is aged about 19 years. On the allegation that her husband had assaulted her, she was taken to the Medical Officer. The Medical Officer did not find any external injury. The learned counsel for the petitioner submits that maladjustments in the marriage have prompted the complainant/wife to make exaggerated and fanciful allegations. The petitioner is not guilty of the allegations of matrimonial cruelty. At any rate, the petitioner does not deserve to endure the trauma of arrest

and detention. Anticipatory bail may be granted to the petitioner, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application on the ground that this is a case where the wife was taken to the Doctor on the allegation of physical cruelty.

4. I have considered all the relevant inputs. The wound certificate has been made available for my perusal. Having considered all the relevant circumstances, I am satisfied, notwithstanding the opposition by the learned Public Prosecutor, that directions under Sec.438 of the Cr.P.C. can be issued in favour of the petitioner. In coming to this conclusion, I have taken note of the reality that arrest and incarceration of the petitioner is likely to mar the matrimonial tie beyond repair. I do further note that though there is an allegation of physical assault, no external injuries are seen suffered by the victim who was promptly taken to the Medical Officer. Appropriate conditions can, of course, be imposed on the petitioner.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 7/12/07. He shall be released on regular bail on his executing a bond for Rs.25,000/-

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with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 8/12/07 and 9/12/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 7/12/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 7/12/07.

**Sd/-**

**(R. BASANT, JUDGE)**

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**P.S. to Judge**

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